

Delegated Report

Planning Ref: 25/00214/HEDGE
Applicant: Mr Colin Coleman
Ward: Newbold Verdon With Desford & Peckleton

Site: 29 Church Lane, Desford, Leicester, Leicestershire, LE9 9GD



**Hinckley & Bosworth
Borough Council**

Proposal: High Hedge Complaint

1. Recommendations

- 1.1. Hedgerow Remedial Notice Not Served

2. Planning Application Description

- 2.1 This application relates to a High Hedge Complaint at 29 Church Lane, Desford, Leicester, Leicestershire, LE9 9GD

3. Description of the Site and the Surrounding Area

- 3.1. The application relates to a high hedge complaint at residential dwelling in the settlement boundary of Desford. The hedge which is the subject of the complaint is located at 29 Church Lane, Desford.
- 3.2. The hedge is situated towards the northwestern boundary of the complainant's property and spans the full width of the rear garden.
- 3.3. The hedgerow is a mixed species of varying height measuring between 3 metres and 4.2 metres and 22 metres in length.

4. Relevant Planning History

94/00278/FUL
EXTENSION TO DWELLING
PER
18.05.1994

94/00610/FUL
ERECTION OF STABLES
PER
21.09.1994

80/01471/4
ERECTION OF 4 NO DETACHED HOUSES
OUT
23.12.1980

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. The following properties were consulted

- Manor Farm 53 High Street Desford Leicester Leicestershire LE9 9JF
- 65 High Street Desford Leicester Leicestershire LE9 9JF
- 1 Station Road Desford Leicester Leicestershire LE9 9FN

5.2. No comments have been received

6. Consultation

6.1. LCC Ecology

“Please note that it is not within our remit to comment on High Hedge applications”.

LCC Archaeology

No comments received

HBBC Arboricultural Officer

“I am not satisfied there is justification for a high hedge complaint here.

The comments made appear to be more in relation to a perceived tree related nuisance and the vegetation in question appears to be more individual shrubbery which forms a semi-broken screen at the bottom of the neighbouring property.

The complainant appears to allude to a right to light which is almost certainly not defensible in this instance”.

HBBC Arboricultural Officer (Further comments)

At present, I do not feel that enforcing a height reduction on the hedging group is in the best interest of the site. A height reduction here would be considered poor practice (particularly due to the presence of various tree species) and this is not included within the relevant British Standard (3998:2010). To do so would cause damage to the respective specimens through wounding which would also encourage poorly unionised new growth and facilitate decay. The vegetation in question is also of notably high ecological benefit.

HBBC Conservation Officer

“I have no comments to make on this application”.

7. Policy

7.1. Anti-Social Behaviour Act 2003 (Part 8 – High hedges)

7.2. Hedge height and light loss (ODPM, October 2005)

7.3. Case for hedge owner

On 19 March 2025 The Local Planning Authority sent a letter to the landowners of 29 Church Lane, Desford asking for their views on the hedge. A written response was received on 15 April 2025.

- 7.4. The Hedge owner states that they have occupied the property since January 1982. The owner has confirmed that they have planted several trees and shrubs along the boundary which have now matured.
- 7.5. There was some initial confusion on the owners part as to whether the planting scheme could be classified as a hedge however, it was later confirmed that it does meet the following criteria of a 'high hedge' by definition of the Anti-social Behaviour Act
(a) is formed wholly or predominantly by a line of two or more evergreens; and
(b) rises to a height of more than two metres above ground level.'
- 7.6. The owner claims that during their occupation of 29 Church Lane, they have been conscious of any branches overhanging neighbouring properties ensuring these were pruned and even removing 'nuisance' trees at the request of the neighbours.
- 7.7. The hedge owner has confirmed that initial attempts to settle the dispute have been made between themselves and the complainant however they have been unable to come to a resolution between them.
- 7.8. A site visit was conducted on 8 May 2025, where the owner confirmed they were aware of the complaint relating to the high hedge. They granted access to the rear garden and allowed photographs of the site to be taken.
- 7.9. Case for the complainant
The complainant has stated that the hedge located at 29 Church Lane is having an adverse effect on the reasonable enjoyment of their property, 63 High Street, Desford.
- 7.10. The complainant has provided evidence confirming that they have tried to formally contact the hedge owner on two separate occasions. Once on 17 October 2024 and again on 18 December 2024. However, communication has broken down between them and high hedge complaint has now been submitted to the local authority.
- 7.11. The complainant states that the height of the hedge is causing a loss of light which predominantly affects the use of their conservatory to the rear. They have taken steps to mitigate the effects by installing a glass roof to the conservatory however they feel that this hasn't resolved the issue.
- 7.12. A site visit was carried out at 63 High Street on 01 April 2025. At the time of the inspection, it was estimated that the height of the hedge ranged between 3 metres and 4.2 metres and spanned the entire width of the rear garden.
- 7.13. The complaint satisfies the criteria set out under the terms of Part 8 of the Anti-Social Behaviour Act 2003.

8. Appraisal

- 8.1. Part 8 of the Anti-Social Behaviour Act 2003 allows local councils to deal with complaints about high hedges whose area contains the land on which the hedge is situated

8.2. Key Issues

- Visual Amenity
- Public Amenity
- Obstruction of Light
- Privacy
- Other relevant factors

8.3. Visual Amenity

29 Church Lane is a residential dwelling situated within the Desford Conservation area. The property occupies a large plot with a mature garden. The hedge comprises of a variety of trees and individual shrubbery which forms a semi-broken screen along the boundary.

8.4. Public Amenity

The hedge is located between 29 Church Lane and 63 High Street, Desford. Due to the positioning of the properties it has limited visibility from the highway on both Church Lane and the High Street. The hedgerow is therefore not considered to be making a significant contribution to the character of the street scene or to the public amenity of the area.

8.6. Obstruction of Light

The British Standard; Lighting for Buildings: Code of Practice for Day Lighting (BS 8206 Part 2) sets the standard for what is a reasonable amount of daylight and sunlight for people to receive to their houses. It works on the basis that properties should receive sufficient natural light during daylight hours to enable normal domestic tasks to be carried out without eyestrain.

8.7. An assessment to calculate loss of light to the garden was carried out using formulas provided by the Office of the Deputy Prime Minister. As part of these regulations, the Building Research Establishment (BRE) devised a method of calculating what height an evergreen hedge should be in order to deliver the windows of a house the amount of daylight and sunlight recommended in the British Standard. The calculations are intended for use in analysing the effect on the habitable rooms of a house, including living rooms, dining rooms, kitchens, and bedrooms.

8.8. The regulations provide details on calculating the 'action hedge height' of the hedge. The action hedge height in this instance has been calculated at 5.2 metres. The existing hedge is significantly below this height.

8.9. Privacy

63 High Street is a residential bungalow with a small rear garden. Given the size of the plot and the close proximity to the hedge, if the height of the hedge were to be significantly reduced it could have a detrimental effect on the amenity through loss of privacy.

8.10. Other relevant factors

Under the terms of Part 8 of the Anti-Social Behaviour Act 2003 a remedial notice cannot specify works which involve the removal of the hedge or works that would result in the death or destruction of the hedge. With this in mind, any remedial action that may be necessary should also ensure the continued health of the hedge.

- 8.11 The HBBC Arboricultural officer has reviewed the complaint and feels that there is not a satisfactory justification for a high hedge complaint in this instance. He has advised that any reduction in height would be considered poor practice and would result in direct harm to the hedgerow.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

- 9.2. Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application

- 9.3. There are no known equality implications arising directly from this development.

- 9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1. The Council's role in these cases is to strike a balance between the competing rights of neighbours to enjoy their respective properties and thereby formulating a proportionate response to the complaint.
- 10.2. The hedge at the subject of this complaint comprises of various trees and shrubs planted along the southern boundary of 29 Church Lane. Desford. The planting has been offset and therefore doesn't form a continual linear hedge line in the traditional sense.
- 10.3. The complainant's main concern is the loss of light to the conservatory. However, the guidelines state that the calculations are intended to be used for the 'main rooms' of a house. These include, living rooms, dining rooms, kitchens and bedrooms.
- 10.4. Given that the conservatory is not defined as a 'main room' the opening between the conservatory and the house, not the front or side faces of the conservatory itself, have been taken as the window position as per the high hedge and light loss guidance.

- 10.5. The comments of the Council's Arboriculturist have been carefully considered in the recommendation. He has advised that a reduction in height would be contrary to the British Standard (3998:2010). It would cause damage to the respective specimens through wounding which would also encourage poorly unionised new growth and facilitate decay.
- 10.6. The action hedge height has been calculated at 5.2 metres. Given, that the overall action hedge height is greater than the height at which the hedge is currently maintained. On this basis it is not possible to conclude that the hedge is causing a significant loss of light and having an adverse impact on the reasonable enjoyment of the complainant's property sufficient to warrant reduction in the height of any of the hedging.
- 10.7. By virtue of the above, it is therefore felt that serving a remedial notice would be unreasonable. It is recommended that no further action is taken.

11. Recommendation

11.1 Hedgerow Remedial Notice Not Served